



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,601	12/03/2003	Gudmundur Fertram Sigurjonsson	SIGU3012/JEK/JJC	4601
23364 7590 01/09/2007 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			EXAMINER LEWIS, KIANDRA CHARLE	
			ART UNIT 3772	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/725,601

Applicant(s)

SIGURJONSSON ET AL.

Examiner

Kiandra C. Lewis

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12, 14-21, 23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 12, 15, 19-21, 23 and 25 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7-9, 14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment submission after final filed on 11/29/2006 has been entered. Applicant's remarks in regards to the rejection of the last Office action have been fully considered and are persuasive, however, the finality of that action is withdrawn due to newly cited art. The rejection of 11/13/2006 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cartmell et al. 5,160,328; Rawlings et al. 4,657,006; Lindqvist et al. 6,051,747; and Kydonieus et al. 5,591,820.

Terminal Disclaimer

2. The terminal disclaimer filed on 11/29/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent Application Nos. 10/725,575 filed on December 3, 2003; 10/725,633 filed on December 3, 2003; 10/924,861 filed on August 25, 2004; and 11/136,465 filed on May 25, 2005, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

3. The indicated allowability of claim 6,13,15, 22 and 23 is withdrawn in view of the newly discovered reference(s) to Kydonieus et al. 5,591,820. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 3772

7. Claims is 1,2,10,12,15,19-21,23 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Cartmell et al. 5,160,328; Rawlings et al. 4,657,006; Lindqvist et al. 6,051,747; and Kydonieus et al. 5,591,820.

8. As to claim 1, 12, 15, 21, and 25, Cartmell et al. disclose a wound dressing having proximal and distal sides (Fig. 2), comprising an absorbent core having proximal and distal surfaces including central and border portions; a discrete skin adherent facing layer (16 or 17) the facing layer having a proximal surfaced and a distal surface directly secured to the absorbent core (14), said facing layer defining a region having a plurality of through extending apertures (col. 5, lines 39-41) arranged in a pattern; and a discrete pressure sensitive adhesive (20) layer applied directly to the facing layer on at least a segment of the proximal surface therefor only surrounding the region of the apertures (col. 4, lines 3-6, lines 11-21) wherein the facing layer and the adhesive layer are contiguous and combine to define the entirety of the proximal sides of the dressing (col. 4, lines 19-23). Cartmell et al. do not expressly disclose that the facing layer is a cross-linked silicone gel. However Rawlings et al. disclose that the a wound dressing that contains in intermediate that is perforated. Rawlings et al. teach that intermediate layer is preferably a non-woven fabric that is formed from hydrophobic polymers. Cartmell et al. and Rawlings et al. are analogous because they are from the same field of endeavor of providing a patient with an absorbent dressing for a wound. Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to use a hydrophobic material as the facing layer in the invention of Cartmell et al. as taught by Rawlings et al. for the purpose of providing the additional support to

Art Unit: 3772

the wound dressing. Rawlings et al. has not specifically stated "cross linked silicone gel", but the applicant has disclosed that the material is preferably hydrophobic.

Lindqvist et al. go on to teach that the use of a hydrophobic cross linked silicone gel in wound dressing (Fig. 1A, col. 1, lines 63-65). Lindqvist further teaches the need for a hydrophobic layer such as a cross linked silicone gel in a dressing for the purpose of preventing spontaneous reflux of absorbed fluid to the skin or the wound. The reference also teaches that it is possible to use other hydrophobic gels in wound dressings such as hydrophobic polyurethane gels. Therefore it would have been obvious to use a cross linked silicone gel as the facing layer because it is known in the art to use a hydrophobic layer in a wound dressing. As to the adhesive layer having greater skin adherence properties than the elastomeric gel of the facing layer this limitation is inherent. It is known in the art that it is well known that elastomeric gels (e.g. silicone gels) have low tack properties. Furthermore Kydoneius et al. teaches that commonly used pressure sensitive adhesives are known to have strong adherence to the skin ('820, col. 1, lines 22-45) and that hydrocolloid (gel forming) adhesives tend to have lower tack properties than other adhesives (col. 2, lines 8-14).

9. As to claim 2, the above combination teaches the plurality of apertures of the facing layer (16, 17) to be located along a central portion (col. 5, lines 39-42).

10. As to claim 10, the above combination teaches the use of acrylate glue as an adhesive in wound dressing ('747, col. 3, lines 39-45).

11. As to claims 19 and 20, the proximal and distal surfaces of the facing layer are generally planar (patent '328, Fig. 2)

12. As to claim 23, the applicant has not disclosed any criticality to the apertures being substantially equally spaced and uniform in shape by disclosing that the design provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art would have expected the dressing to work equally as well with apertures that were not uniform in shape or equally spaces. It would have been obvious to modify the apertures to obtain the invention as specified in th claims because such a medication would have been considered a mere design consideration.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cartmell et al. and Rawlings et al. and Lindqvist et al. and Kydonieus et al. as applied to claim 1 and further in view of Levin US 2003/0199800.

As to claim 3, Cartmell et al., Rawlings et al., and Lindqvist disclose the limitations of the base claim but do not expressly disclose that the border portion of the facing layer generally corresponding to the border portion of the absorbent core is substantially free of apertures. Levin however teaches that the border portion of the facing layer generally corresponding to the border portion of the absorbent core is substantially free of said apertures (see figure 2). Therefore at the time of the invention it would have been obvious to one having ordinary skill in the art to modify the invention of Cartmell et

Art Unit: 3772

al., Rawlings et al., and Lindqvist et al. by the limitation taught in Levin for the purpose of providing an attachment means that adhesive surface that is substantially leak free.

Allowable Subject Matter

14. Claims 4,5,7,8,9,14,16,17 and18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

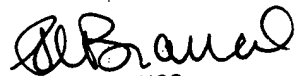
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiandra C. Lewis whose telephone number is 571-272-7517. The examiner can normally be reached on Mon-Thurs 9AM-6PM and alternating Fridays 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCL


PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
1/6/06